

# State of Maine



## **Representing the Best Interests of Children In Child Protection Cases**

### **A Basic Handbook for Guardians ad litem**

**Provided by the Maine District  
Court**

**July 2003**

Prepared by the Maine District Court Child Protection  
Advisory Committee  
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# REPRESENTING CHILDREN IN CHILD PROTECTION CASES

## I. OVERVIEW

The Child and Family Services and Child Protection Act provides for the appointment of a Guardian ad litem in every child protection proceeding (with limited exceptions) “as soon as possible after the proceeding is initiated” 22M.R.S.A. §4005.

The Guardian ad litem’s statutory mandate is to act “in pursuant of the best interests of the child.” The statute specifically outlines the Guardian ad litem’s responsibilities as to contact with the child. The Guardian ad litem must see the child in the child’s home or foster home within seven days of the appointment “and at least once every three months thereafter.” The Guardian ad litem must report to the Court and all parties in writing at six-month intervals. The Court may admit the report into evidence.

The Statute also provides the Guardian ad litem with broad investigatory powers, including the right to have “access to all reports and records relevant to the case.”

The Guardian ad litem’s investigation must include, when possible and appropriate, the following:

1. Review of relevant mental health records and materials;
2. Review of relevant medical records;
3. Review of relevant school records and other pertinent materials;
4. Interviews with the child with or without other persons present; and
5. Interviews with parents, foster parents, teachers, caseworkers and other persons who have been involved in caring for or treating the child.

The Supreme Judicial Court has adopted Standards of Practice for Guardians ad Litem in Maine Courts which further detail the duties and powers of GALs. The Court also promulgated Rules for Guardians ad Litem, which address rostering and continuing education requirements, the filing of complaints against GALs, and the lack of attorney-client privilege. All Guardians must be rostered in accordance with the Rules. Guardians should regularly review the Standards of Practice and Rules and consider their particular application to the case or cases to which they have been appointed. They are printed in the Maine Rules of Court.

GALs are appointed in Title 19-A and Title 22 cases as well as Probate Court cases. While all GALs share the core mission of protecting and promoting a child’s best interests, there are distinct differences in a GAL’s role depending on the case type being served.

Title 19-A GALs are either attorneys or licensed mental health professionals who have been rostered by the Chief Judge of the District Court. 19-A GALs are appointed by the Court in divorce and custody proceedings and often recommend residency and contact schedules for the child. The parties are responsible for paying for the Guardian’s services. Title 19-A proceedings are generally a matter of public record.

Title 22 GALs serve in cases in which there are allegations of abuse and/or neglect against a child’s parents. Title 22 GALs are either attorneys who have been rostered by the Chief Judge or Court Appointed Special Advocates known as CASAs. (CASAs are volunteers from the community who are trained and supervised by the CASA program.) The GAL’s role is one of investigating a child’s situation and advocating for his/her best interest. In Title 22 cases, the GAL’s investigation involves many persons in the child’s life including parents, foster parents, caseworkers, medical professionals, school personnel, extended family and other involved parties. These are confidential proceedings. The District Court pays the GAL’s reasonable costs and expenses.

This handbook focuses on the work of Guardians in Title 22 cases. Once appointed, a Guardian ad litem continues to represent the child's interests until the parents regain custody and the case is dismissed, until the child is adopted or until the case is dismissed for another reason. The Guardian's role in protecting the child's interests after a termination of parental rights, or when there is an alternative long-term placement, is as crucial as it is during the reunification stage. The Court continues to oversee the case and the GAL continues to serve as the Court's eyes and ears.

Although many GALs are licensed attorneys, a GAL does not serve as a child's lawyer. A GAL is an objective and independent voice for the child who makes recommendations about what is in the child's best interest after investigating the facts. A GAL does not represent the parents, foster parents or DHS.

## **II. SETTING UP THE FILE – WHAT TO DO FIRST**

1. In every case, the first information you receive will be the petition, which will include the order of appointment. In some instances it may be helpful to ask the court clerk to fax the petition to you to give you additional time to gather information and visit the child prior to a Summary Preliminary Hearing. It is a good idea to make several extra copies of the order of appointment and keep them where you can find them easily in the file. Most schools will require you to provide them with a copy of your order (and a photo I.D.) before allowing you access to the child.
2. The petition will include the specific allegations supporting the petition, the name and birth date of the child, the names and addresses of the parents, the names of the attorneys appointed to represent each parent, and the name of the caseworker who filed the petition. (If the child is connected to a Native American Tribe, special laws apply under the Indian Child Welfare Act, and tribal representatives may play a major role in the case).

3. You will find it helpful to have a "contact information" sheet inside the front of the file folder (or somewhere else easily accessible) with all the telephone numbers, fax numbers, directions and email addresses you'll need (Assistant Attorney General, caseworker, foster parents, parents, attorneys, therapists, etc.).
4. Your first phone call should be to the caseworker to get the contact information for the child, and that call should be made as soon as possible. If you anticipate being out of the office, ask the caseworker to simply leave the contact information with your secretary or on your voice mail. You should also request that DHS provide you with the entire file regarding the family, including any past closed files, as soon as possible.
5. If possible, try to make contact with the foster parent/parent/relative caregiver within 24 hours of receiving the petition and order of appointment. Be sure to carefully explain who you are and your role in the case. Although most foster parents have encountered Guardians ad litem many times and will understand your job, other caregivers may not. Do not get into an extended discussion of the case on the phone – simply make the appointment to see the child and to meet with the caregivers.

6. Try to talk to each parent as soon as possible. It is recommended that you contact the parents' attorney(s) to make arrangements to meet with the parents. Carefully explain your role as the child's advocate and that you are an independent voice for the child. If the child is in foster care, ask about the possibility of relative placements. It is the Department's responsibility to investigate kinship placements. A GAL is not expected to undertake background checks or investigate the relative's circumstances. If the proposed relative is out of state, expect a delay in resolving the issue. The Interstate Compact on the Placement of Children (ICPC) process can take months. Stay in touch with the caseworker to make sure the ICPC request is made as soon as possible after the relative presents as a placement option.

### III. INVESTIGATING AND ADVOCATING FOR THE CHILD

As the child's Guardian ad litem, you will be investigating the child's situation as well as the family's situation, and you will be advocating for the child in many different areas, including but not limited to, whether the child should be removed from or returned to the parents. Your investigation should be "independent" so you should not just rely on DHS to provide information to you, nor should you believe one person's view of events without checking out the information from other sources. You should not assume that DHS is providing all the services the child and family needs. In addition to making recommendations to the Court, you will be doing a lot of your advocacy behind the scenes, e.g. calling the DHS worker to recommend a change in visits, urging the parents to get into therapy, asking the foster parents to set up sibling visits, asking the school to provide extra help, etc.

1. While the investigation actually begins with the review of the petition and the initial discussion with the caseworker, one of the first things the Guardian ad litem is expected to do, and should do, is to meet the child. Maine law provides for the first meeting to occur in the child's home or foster home. 22 M.R.S.A. §4005(1)(B). You should rely on those who know the child (foster parent, parent, relative caregiver) to let you know how to arrange the initial meeting in a way that makes the child most comfortable. Ask the caregiver to let the child know when you are coming so that the child can ask questions about who you are and why you are coming. Future meetings should occur in both the child's home or foster home and in a neutral setting. GAL Standards of practice 2.2. It can be useful to do at least some **unannounced** visits, especially if you have any concerns about the placement. This may annoy some foster parents, parents or others caring for the child, but the child's safety is your paramount concern. Unannounced visits obviously are difficult because of the time wasted if no one is home, but sometimes they can be combined with other visits in the area.
2. Remember that you are an unfamiliar person coming into the child's life at a very stressful and confusing time. Be careful to explain who you are, using words appropriate to the child's age. Most children seem to know from television what a judge does – you might explain your role by telling the child that you are the "Judge's helper" and will be letting the judge know how they are doing.

3. Be sure visitation arrangements tailored to the child's best interest are established as soon as possible for the child and his/her parents, **and** for the child and his/her **siblings** if the children are not placed together. Title 22 Section 4034 (6) requires that DHS set up a visit with parents and siblings within 7 days of a Preliminary Protection Order "unless there is a compelling reason not to schedule visits."

If visits are not set up quickly or if you believe there should be more frequent visits, or if you believe there is a compelling reason why visits should be stopped or not started, you should first discuss this with the DHS caseworker, the parents' attorneys and the AAG to try to work things out. If that does not succeed, you can ask the Court to order a different visitation arrangement.

While visits with parents are usually set up quickly, sibling visits often get lost in the shuffle if the siblings don't all visit with the parents at the same time. In those situations, you should advocate for a set visit schedule for siblings, and if necessary ask for a Court order to that effect, unless there is a very compelling reason the siblings should not visit.

Resist any contact schedule that has the child on the road more than the parent or that is disruptive for the child. Particularly if the child is an infant, always insist on as much contact with the parents as possible. Shorter visits over several days are preferable to longer, less frequent visits – especially for younger children. If the visits with the parents are supervised, continually review the need for the visits to be supervised and, if possible, look for appropriate relatives to supervise rather than having the visits at the Department or an agency.

4. Siblings should be placed together whenever possible, unless one sibling poses some type of threat or conflict for another sibling. You should advocate for that to happen as early in the case as possible, since siblings placed in separate foster homes initially may never be reunited if they do not return to their parents.
5. It is extremely important for the older children to understand that they have a voice in the case and that your job is to tell the judge exactly how they feel – whether you agree with their position or not. You should also explain that you might have to tell the judge you don't agree with them. Make sure you tell them often that everyone is just trying to figure out what is best for them.
6. Many children are excited that they have an advocate of their own and they love business cards. Make sure the child has your card and that there is a way for the child to reach you at any time. If the child is in a treatment facility or group home, be sure to have your name on the child's phone list and tell the staff how the child can reach you. Always return the child's call as soon as you possibly can – children are much less understanding of delays in returning calls than adults.
7. Guardian ad litem work is not a 9 to 5 job. Be prepared for weekend and evening work. Scheduling visit times around a child's school activities, therapy, etc. can be quite difficult. Consider early morning visits before school – but check with the caregivers to make sure that the child can handle an early-morning visitor and that it won't be too disruptive for the child.
8. Set up a tickler system to remind yourself to see the child every three months. You might want to calendar the reminders at about 2 months to ensure time to schedule the visit.

9. You should also calendar reminders to check in with the child's therapist/teachers/foster parents. The frequency of these calls will depend entirely on the child's circumstances. For example, if a child is in a stable, long-term foster care arrangement, it will not be necessary to speak with the therapists as often as it would be for a child who has recently been removed from a home.
10. If the child is in a therapeutic foster home, it is likely that the child's mental health services will be set up and monitored by an outside agency, with a case manager overseeing the child's treatment and the child's placement. It will be much easier for you to stay informed about the case if you ask the agency to automatically send you any information generated in the case (visit report forms are a good example). Otherwise, you will have to wait for the caseworker to forward it. It is much better to have the information as the reports are generated so that if, for example, there was a problem at the child's visit with the parents, you know about it sooner rather than later.

If the child is not in a therapeutic foster home, you should contact the individual providers to get information on the child's progress unless you have a DHS worker who gathers and sends out this information regularly. (A few workers do this, but many do not send the information out until just before a Court hearing or conference.)

In addition to reviewing written information, it is often very helpful to speak directly with the providers.

11. Depending on the child's age, it may be appropriate to ask the child if they would like to meet the judge.

Many children are simply curious about what the judge looks like and what the courtroom looks like. Don't push it – if they don't want to, they shouldn't feel that they have to. It is preferable for the child to meet just with the judge and the Guardian ad litem, especially if the case is not going to hearing. The discussion must be recorded. Be sure to notify the parents (and their attorney) to find out if there is any objection to the judge meeting with the child before the meeting. Tell the child a little about the judge so they have some idea of what to expect.

12. Check with the foster parents, child's therapist and caseworker frequently just to be sure you always have the most current information about the child.
13. If the child's placement changes, always try to visit the child as soon as possible after they move, even if you've just seen them a few weeks before. It is important for the child to know that you are paying attention to where he/she is and how he/she is doing. You are supposed to be notified before the child is moved. If you object to a move and cannot work things out with the parties, notify the court.
14. If the child has a therapist, you should carefully monitor that relationship to be sure the child is comfortable with the therapist and that the issues that need to be addressed are being addressed. Most therapists do not generate regular reports or provide notes, but most would be willing to write an occasional letter updating you on the child's progress. If the child is not getting counseling and you believe it would be helpful, you should advocate for that with DHS and, if necessary, ask the Court to order DHS to set it up.

15. Try to participate in the child's team meetings – either in person or by phone. If your schedule doesn't permit you to participate, ask someone who is present to provide you with their notes if minutes are not going to be prepared. Team meetings usually include, at least, the child's therapist, caseworker, case manager and the child's foster parent/parents. These meetings are one of the most effective ways to gather information, to gauge the progress of the case and to determine what remains to be done to address the issues that brought the Department into the child's life. If the parents are not invited to the team meetings and if reunification is proceeding, you should advocate that the parents be invited so they can learn how the child is doing, offer suggestions, learn from the foster parents and other treatment team members about techniques that help their children, etc.

If there are no team meetings, which is often the case if the child is not in a therapeutic foster home, you should advocate that DHS or the child's therapist set them up and invite everyone involved with the family. DHS has instituted a family team conferencing program that may work in your area.

16. Remember to talk with teens about having an extended care agreement with DHS when they reach 18. These agreements, sometimes referred to as "V-9" or "voluntary" agreements allow older youth to get support as they work toward important independent living goals. Typical goals include: getting a high school diploma; pursuing college or other post-secondary training; developing employment skills; getting support with mental health or counseling needs; getting support with pregnancy or parenting needs or with special medical needs.

These agreements are voluntary and offer valuable opportunities to young people. They allow teenagers to have sources of support that are most useful to them, such as educational opportunities or the chance to live independently with help from the Department's Independent Living Program. Talk to teens early on, at age 16, about the opportunity to develop a voluntary agreement when they reach 18. Some teens will resist the idea of continued involvement with the Department. Close to 100 Maine foster youth are currently enrolled in college or post-secondary education and many created the foundation for their successes through these voluntary agreements.

17. If the child has special education needs, try to attend his/her P.E.T.s (Pupil Evaluation Team Meeting) and advocate for any needed services. If the child is in a foster home, the foster parents are automatically the surrogate parents for both preschool and school-aged children, with the authority to agree or disagree with the educational plan and to appeal a decision with which they do not agree. Many foster parents (and some DHS workers) do not realize that foster parents are the surrogate parents, and many foster parents are not trained in special education regulations. Some foster parents are intimidated by school and CDS officials. If necessary, you should help the foster parents advocate for the child with the school. Pine Tree Legal Assistance in Portland has lawyers with expertise in special education, who can advise you and the foster parents, and in some cases may represent the child at the PET and/or in an appeal.

If the child is in a group home or other residential facility, the state Department of Education is required to find someone to serve as a surrogate parent. The DOE will often ask the GAL to do this. If you do this, you need to be sure you can attend the meetings since you will be the one agreeing to, or disagreeing with the educational plan for the child. You should be careful not to take on too many of these types of roles as they can be time consuming. You can still attend the PETs even if you are not the surrogate parent.

18. Do not forget that you can file a Motion with the court requesting an expedited proceeding if you feel some aspect of the case is not proceeding in a way that benefits the child and you are unable to resolve the issue satisfactorily with the parties.

### **III. WRITING THE REPORT**

Although the statute only requires reports in writing every six months, the best practice is to file a report after each visit with the child – not only because that is when the information is still fresh in your mind, but also because it provides for a way to stay in contact with all the other parties at least once every three months.

The format of the report varies widely among Guardians ad litem and the statute only requires “a written report of the investigation, findings and recommendations.” Many Guardians ad litem begin the report with a brief description of the procedural posture of the case and who they have talked to and information they have reviewed since the last report, followed by a description of the investigation and findings. The recommendations are often found at the end of the report. Whatever the format, the report should be logically and clearly organized and there should be specific recommendations. Some Guardians ad litem take a camera with them when they see the child and include a photo of the child with their report. If the judge has not met the child, including a photo helps the judge to have a better understanding of who the child is and puts a face with the name.

The report must be provided to the court, with a copy to each party, reasonably in advance of a court hearing. 22 MRSA §4005(1)(D).

### **IV. THE GUARDIAN AD LITEM’S ROLE AS MEDIATOR**

The Guardian ad litem is often in the best position to act as mediator to try to facilitate a resolution of the case or at least a narrowing of the issues to be tried. However, consistent with your responsibility as the child’s advocate, it is first necessary to have a clear understanding of what resolution you feel is in the child’s best interest. Make sure you get feedback and input from the child’s therapist and other knowledgeable professionals before you attempt to negotiate.

Too often, this negotiation tends to only happen at the worst possible time – in the corridor outside the courtroom before (or during) the trial. Although everyone is busy and meetings are often difficult to arrange, some contact involving, at least, all the attorneys should be attempted before almost any issue is litigated. Your effectiveness as a mediator will be enhanced if you stay in touch regularly with the parents and their attorneys just as you stay in touch with the Department and the Assistant Attorney General.

If the child has been placed with a relative, be aware that conflicts may (and often do) develop between the parents and the relative caring for the child. Try to resolve those conflicts as soon as you become aware of them. If a parent expresses concern about a particular issue, see what you can do to help the relative and parent work through it before it grows into a bigger problem.

### **V. THE GUARDIAN AD LITEM’S ROLE IN THE HEARING**

1. The Guardian ad litem always is the last to ask questions of witnesses and, as a result, you will usually ask questions to clarify previous testimony and to bring out points that may have been overlooked by other counsel. Don’t ask questions just for the sake of asking them.



2. Although you will likely have filed a report before the hearing, you should not hesitate to indicate that you would like an opportunity to offer your final recommendation after you have heard the testimony of all the witnesses. The Guardian ad litem is often in the uncomfortable position of making recommendations before all the evidence comes in at trial. In highly contentious cases with many witnesses, it is usually best to file a report with your investigation and findings and perhaps a tentative recommendation pending the completion of the trial.

You may be called as a witness by one of the parties. Do not hesitate to let the judge know if you would like to be called last so you have the benefit of hearing all the evidence before testifying.

3. An issue that often comes up – particularly with older children – is whether they should be present for either the trial or the case management conference. This issue needs to be addressed on an individual basis. If the child asks if they can be there, explore with them why they want to go. If they have not yet met the judge, that may be the reason – in which case arrangements can be made for the child to meet the judge on another day. It may be appropriate for some children to attend judicial reviews and other court proceedings.

With rare exceptions, you should always resist requests that the child testify. If it is necessary for the child to testify, look for other options that will be less stressful for the child – meeting with the judge in chambers or stipulating to their testimony. If it is determined that the child must testify, discuss with the judge before the day of trial how the judge handles child testimony, so you can help the child understand what to expect.

## VI. CONCLUSION

In summary, the role of the GAL in protecting and promoting a child's best interest requires much flexibility, tenacity and common sense. In child protection proceedings, the landscape is ever shifting, requiring the GAL to reassess and advocate for best interest at each juncture. Best practice requires consistent monitoring of one's role as measured against the Rules and Standards for Guardians ad litem.

On behalf of Maine's children, thank you for serving in this important role.

## **Legal References**

### **Statutes**

Child and Family Services and Child Protection Act, 22 M.R.S.A, §4001 et seq.

Adoption and Safe Families Act, 42 U.S.C. §670 et seq. See also 45 C.F.R. §1356 et seq.

Interstate Compact on Placement of Children (ICPC), 22 M.R.S.A. §4191 et seq.

Indian Child Welfare Act, 25 U.S.C. §1901 et seq.

### **Rules**

Rules for Guardians ad Litem including Appendix A., Standards of Practice for Guardians ad Litem in Maine Courts printed in the Maine Rules of Court

### **Caselaw Addressing the Role and Responsibilities of Guardians ad litem in Maine**

Miller v. Miller, 677 A.2d 64 (Me. 1996)

Kennedy v. State, 1999 ME 85, 730 A.2d 1252

Marr v. Maine Department of Human Services, et al., 215 F. Supp. 2d 261 (D. Me. 2002)

## **Summary of Key Court Proceedings in Child Protection Cases**

### **Summary Preliminary Hearing**

When the court grants the Department's ex parte request for a Preliminary Protection Order and gives immediate custody of a child to DHS, a summary preliminary hearing must be scheduled within 7-14 days. At the hearing a judge will determine whether there is immediate risk of serious harm to the child if returned to the parents/custodians.

### **Case Management Conference**

A case management conference is held within 30-40 days of the filing of a Petition and may also be held prior to any contested hearing. All parties (including the parents / custodians) meet with a judge to review the status of the case, discuss the likelihood of an agreement, and identify the next steps to be taken.

### **Jeopardy Hearing/Order**

The court must hold a jeopardy hearing and issue an order within 120 days of the filing of a child protection petition. At the hearing a judge will determine whether the child is in circumstances of jeopardy to his/her health or welfare. If the court enters a finding of jeopardy, the judge will also decide what needs to be done to alleviate the jeopardy. If the court finds an aggravating factor and relieves the Department of its obligation to provide reunification services, a permanency planning hearing must be scheduled within 30 days.

### **Judicial Review Hearing**

The court will review a case every 6 months after issuing a Jeopardy Order unless a child has been emancipated or adopted. At this hearing a judge will review the child's circumstances and the parties' progress toward reunification.

**Permanency Planning Hearing**

A permanency planning hearing must be held within 12 months of the time a child is considered to have entered foster care and every 12 months thereafter. If the court finds an aggravating factor and orders the Department to cease reunification, a permanency planning hearing must commence within 30 days of that order. At the hearing a judge will determine the permanent plan for the child. This may be reunification with one or both parents, permanent placement with a relative, a legal guardianship, adoption, or another planned permanent living arrangement. Long term foster care is not a permanent plan.

**Termination Petition / Hearing**

With some exceptions, the Department must file a termination petition when a child has been in foster care for 15 of the most recent 22 months or the court has found that aggravating circumstances exist and ordered reunification efforts to cease. When a Petition for Termination of Parental Rights is filed, the court sets a time and date for a conference. At the conference the court will address pre-trial issues and then set the matter for hearing. At the hearing, the state must prove by clear and convincing evidence that the parents are unfit and that it is in the child's best interest to terminate their parental rights.

**Post TPR Review**

The court continues to review a case every 6 months after issuing a Termination Order unless the child has been emancipated or adopted. At this hearing a judge will review the Department's progress toward a permanent placement for the child(ren).

# **Decision Inventory Questionnaires**

**From**

## **A Question of Balance**

**By Janet L. Ward**

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## **Decision Inventory Questionnaires**

### **Shelter Care / Detention Hearing**

#### **Assessment of Risk**

1. What harm has the child suffered?
2. Classify the degree of harm, i.e. severe, moderate, mild.
3. With what frequency and over what period of time has harm occurred?
4. Are the consequences, physical and emotional, likely to be short-term, long-term or permanent?
5. What is the likelihood of recurrence and why?
6. What kind of long-term or permanent damage could result if the situation goes unchecked?
7. Was removal of the child necessary for his or her protection?
8. What services, short of removal, are necessary to adequately reduce risk?
9. Which of these services are available in this area?
10. Are there waiting lists for any needed services?
11. How would the family access these services?
12. Which services were made available to this family prior to removal (or prior to this hearing)? What outcome was observed for each service?
13. Are professional assessments necessary to fully answer any of these questions?
14. List any additional factors which increase the level of risk, i.e. substance abuse, domestic violence, caregiver abused as a child, history of court involvement with other children, etc.

### •Assessment of Primary Caregiver

1. What is the caregiver's understanding of the situation?
2. Is the caregiver motivated to make necessary changes?
3. Is there substance abuse on the part of the caregiver?
4. If there has been substance abuse, what is the duration, severity and recovery history?
5. If there has been substance abuse, what is the impact on caregiving ability?
6. What is the health status of caregiver?
7. What is the caregiver's intellectual level?
8. What is the caregiver's level of parenting skills?
9. Describe the caregiver's current emotional state.
10. What kind of support is available from spouse, significant other, extended family and/or friends?
11. If one of the child's parents has not been involved, what efforts at contact have been made?
12. How has the caregiver demonstrated cooperation with service providers or lack of it?
13. Does the caregiver have the ability to protect the child or remedy the situation?
14. Are professional assessments necessary to fully answer any of these questions?

### Assessment of child

1. Are basic food and clothing provided for the child when s/he is in the caregiver's home?
2. Does the home contain serious hazards to the child's health and safety? Is the caregiver's current home adequate?
3. Is the caregiver's current home adequate?
4. How does the caregiver meet the child's health and medical needs?
5. What level of supervision does the caregiver provide?
6. What indications of caregiver-child attachment have been observed?
7. What is the child's relationship with his/her siblings?

8. What is the child's experience with discipline, limit setting and consequences in the home?
9. Does the caregiver have realistic expectations of the child?
10. In what ways are emotional nurture and intellectual stimulation provided by the caregiver?
11. How does the child perform in school academically and behaviorally? Have there been any significant changes recently?
12. Is the child seen as a cause of problems in the home, school or community?
13. Describe any history of delinquent behavior.
14. Is family income sufficient to meet the child's basic needs?
15. What is the child's understanding of the situation?
16. Is the child requesting out of home placement?
17. Does the child have significant other family members? What kind of relationship have they had with the child?
18. Are professional assessments necessary to fully answer any of these questions?

### Assessment of Out of Home Placement

1. List all the losses that the child would suffer by being removed from the home.
2. Would siblings be placed together?
3. What is the most appropriate type of placement for this child?
4. Is such a placement available, and if so, how soon?
5. What efforts have been made to locate possible relative placements?
6. How has the appropriateness of any relative placement been assessed?
7. What will out of home placement provide for the child? For the parent?
8. What visitation arrangements would be made, i.e. location, frequency, length, transportation, supervision?
9. What is the expected duration of placement?

## **Adjudicatory/Dispositional Hearing**

### **Assessment of Risk**

1. What is the harm or act which brought the case before the court?
2. Where is the child placed at this time?
3. If in the home, has the risk of harm been sufficiently reduced to allow the child to remain?
4. If outside the home, has the risk of harm been sufficiently reduced to allow the child to return at this time?
5. If outside the home, is this the least restrictive type of placement that meets the child's needs? The closest to home?
6. How often does the social worker see the child?
7. How often does the social worker see the family?
8. What services are being provided to the family and how do they address the risk of harm?
9. Is the agency making unreasonable demands upon the family?
10. Are additional services needed, and if so, which ones?
11. Are such services available and accessible?

### **Assessment of Primary Caregiver**

1. What progress has been made by the caregiver in eliminating the need for placement?
2. What barriers still exist?
3. What level of motivation and cooperation has been shown by the caregiver?
4. What level of support has been provided to the caregiver by spouse, significant other, extended family or friends?
5. If one of the child's parents has not been involved, what efforts at contact have been made?
6. What is the visitation schedule? When did it begin? Is it adequate and realistically scheduled? Has the caregiver adhered to it?
7. What happens during visits?

### **Assessment of Child**

1. Are the child's basic physical needs for food, clothing, shelter, protection and supervision being met?
2. How are the child's emotional needs being met?
3. What is the child's relationship with his/her siblings?
4. How has the child reacted emotionally/behaviorally to out of home care, if applicable?
5. List current school and grade and describe academic functioning.
6. Are educational needs being met? If not, why not?
7. What is being done about any health problems the child has?
8. What is being done about any special needs the child has?
9. What are the child's wishes regarding placement at this time?

### **Assessment of Out of Home Placement**

1. If the child remains in care, will replacement be necessary, and if so, why?
2. What type of facility would the child be moved to and what is the availability of such placements at this time?
3. What will this facility provide for the child? For the parent?
4. Would siblings be placed (or remain) together?
5. What visitation arrangements would be made, i.e. location, frequency, length, transportation, supervision?
6. What is the expected duration of the placement?

### **Subsequent Review Hearings**

#### **(To be used in conjunction with Adjudicatory/Dispositional Hearing Questionnaire)**

1. How long has this child been in care?
2. What percentage of his or her life has been spent in care?
3. How long has the child been with the current caretakers?
4. What is the quality of the relationship between the child and the current caretakers?
5. What is the best estimate of how soon the child can return home?
6. If the plan is not return home, what is it? What level of permanency would this plan provide?

7. If the child is unable to return home, what level of involvement would the current caretakers have in his or her future?
8. What progress has been made toward the alternative plan?
9. What are the barriers?
10. What is the length of time anticipated to achieve it?

### **Termination Parental Rights Hearing**

#### **Assessment of Reasonable Efforts**

1. Is there any service that the court, social service agency or the CASA/GAL volunteer deems necessary which has not been provided?
2. Is there any service which the caregiver feels should have been offered that has not been?
3. Have there been any changes in services provided and if so why?
4. Are there any other services which could be provided that would materially affect the ability of the caregiver to parent the child in the next six months?
5. Has measurable improvement occurred in the condition(s) that brought the child into care?
6. If some improvement occurred, what is the estimated length of time before the child could be returned home?
7. If the child were to return home, what services would have to be in place to assure a minimum sufficient level of care? For how long?

#### **Assessment of Gains and Losses**

1. How old is the child and at what age did he/she come into care?
2. Can the child's placement history be reconstructed from the case record? Make a time line indicating each placement, and its duration, including any returns to the home. Note reasons for moves.

3. Describe the current parent-child relationship. How does it differ from the time at which the child was removed? Has favoritism been observed? Has role reversal been observed?
4. In what way(s) does the child grieve the loss of the parent(s) i.e. acting out, withdrawn behavior, sadness, verbal cues, etc.?
5. What is the child's desire regarding placement at this time?
6. Is there any ambivalence about returning home, i.e. fear of previously existing conditions?
7. Is there any ambivalence about leaving the current caretaker?
8. If the child is unable to return home, what level of involvement would the current caretakers have in his or her future?
9. If the current caretakers are not an option, what exploration has been done of other possibilities i.e. relatives, previous caretakers, others known to the child?
10. Has a professional evaluation of this child's attachment to parent figures been done? With what results?